

October 26, 2004

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L02P0015**  
Proposed Ordinance no. **2004-0413**

**NORTHLAKE RIM**  
Preliminary Plat Application

Location: Between Military Road South and Peasley Canyon Road,  
North of SR-18

Applicant: GWC Inc.  
*represented by* **James Jaeger**  
Jaeger Engineering  
9419 South 204th Place  
Kent, WA 98031  
Telephone: (253) 850-0155

King County: Department of Development and Environmental Services,  
*represented by* **Kim Claussen**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7167  
Facsimile: (206) 296-7051

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:  
Department's Final Recommendation:  
Examiner's Decision:

Approve, subject to conditions  
Approve, subject to revised conditions  
Approved, subject to revised conditions

**EXAMINER PROCEEDINGS:**

Hearing Opened: October 12, 2004  
Hearing Closed: October 25, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**1. General Information:**

Developer:	GWC Inc. Terry DeFoor 24633 NE 133rd Street Duvall, WA 98019 (206) 999-8874
Engineer:	Jaeger Engineering 9419 South 204th Place Kent, WA 98031 (253) 850-0155
Location:	Generally between Military Road South and Peasley Canyon Road, north of SR-18
STR:	15-21-04
Zoning:	R-4
Acreage:	11.62 acres
Number of Lots:	37
Density:	Approximately 3.18 units per acre
Lot Size:	Approximately 5,000 square feet in size
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Lakehaven Utility District
Fire District:	King County Fire District No. 39
School District:	Federal Way School District
Complete Application Date:	September 10, 2002

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the October 12, 2004, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. GWC, Incorporated, has filed a preliminary plat application to subdivide 11.62 acres into 37 lots for single-family residential development. The proposed property is located on the east side of Military Road South within a rapidly developing urban residential area.
4. Surface water runoff from the plat development will be piped over steep erosional slopes into the Mill Creek system. Level 2 flow control will be imposed to avoid exacerbating erosional impacts. Further north within the Green River valley the gradient for Mill Creek flattens out and chronic flooding conditions are encountered during major storm events. DDES staff regards

these chronic flooding conditions to be regional problems to be resolved through public projects undertaken by the affected jurisdictions.

5. The October 12, 2004, public hearing was continued to allow the Applicant's engineer to submit a revised design for the proposed recreation tract meeting code requirements. The revised Tract C area exceeds the 14,430 square feet required under code, and the adjacent drainage tract has been reconfigured to provide a more usable recreation area. In addition, staff condition 11.c has been revised to accommodate alternative designs for transitioning channelization improvements north of the plat entrance if additional right-of-way cannot be obtained.

#### CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

#### DECISION:

The preliminary plat application for Northlake Rim, as revised and received on October 19, 2004, is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).

5. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
7. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The drainage facilities shall be designed in accordance with the 1998 King County Surface Water Design Manual (KCSWDM), including Level 2 flow control and Basic Water Quality requirements. Geotechnical recommendations for the design and construction of the stormwater facility shall be included with the engineering plans.
9. A stormwater conveyance pipe is required from the top of the steep slope to an acceptable location at the bottom of the slope, per Core Requirement 1 of the KCSWDM. The pipe shall be surface constructed HDPP (Drisco) or as approved by DDES. Geotechnical recommendations for the design and construction shall be included with the engineering plans. A conceptual plan showing the approximate location was received by DDES. The final design and outfall locations shall be reviewed with the engineering plans.
10. A road variance (L04V0016) is approved for this site. All conditions of approval for this variance shall be incorporated into the engineering plans.
11. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):

- a. The internal access road adjoining Lots 1 through 3 shall be improved at a minimum to the urban subcollector street standard. The remainder of the internal road shall be constructed to the urban subaccess street standard.
  - b. The north stub road adjoining Lot 37 shall be improved to the urban ½ street standard.
  - c. FRONTAGE: The frontage of the site along Military Road South shall be improved to the urban principal arterial standard. The frontage improvement shall also meet the conditions of approval for road variance L04V0016. A channelization plan must be submitted with the engineering plans and reviewed by King County Department of Transportation, Road Services Division, and Traffic Engineering Section. The applicant shall make a reasonable written attempt to secure a right-of-way radius at the north side of the plat entrance road along Military Road South. If unable to obtain the ROW dedication, alternative designs (i.e., reduced radius, partial curbed sidewalk) may be considered as approved by DDES and KCDOT.
  - d. Tract D shall be a minimum 20-feet wide and be improved as a joint-use driveway per Section 3.01 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the final plat map.
  - e. Modifications to the above road conditions may be considered according to the variance provision in Section 1.08 of the KCRS.
12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
13. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
14. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
15. There shall be no direct vehicular access to or from Military Road South from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
16. The plant islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners' association. This shall be stated on the final plat.

17. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
18. Preliminary plat review has identified the following specific sensitive areas requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

### **Streams**

- a. Class 1 streams shall have a minimum 100-foot buffer, measured from the ordinary high-water mark (OHWM).
- b. The streams and their respective buffers shall be placed in a Sensitive Area Tract (SAT).
- c. A minimum building setback line of 15 feet shall be required from the edge of the tract.

### **Alterations to Streams or Wetlands**

- d. If alterations of streams and/or wetlands are approved in conformance with KCC 21A.24, then a detailed plan to mitigate for impacts from that alteration will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval to guarantee that the mitigation measures are installed according to the plan. Once the mitigation work is completed to a DDES Senior Ecologist's satisfaction, the performance bond may be replaced by a maintenance bond for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be installed prior to final inspection of the plat.

### **Geotechnical**

- e. Determine the top, toe and slides of 40% slopes by field survey. Provide a 50-foot buffer for these slopes. The buffer may be reduced with the submittal of a satisfactory soils report, subject to review and approval by a DDES geologist, prior to engineering plan approval.
- f. The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in KCC 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.
- g. The following note shall be shown on the final engineering plan and recorded plat:

## RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area setback area conveys to the public a beneficial interest in the land within the tract/setback area. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/setback area imposes upon all present and future owners and occupiers of the land subject to the tract/setback area the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/setback area. The vegetation within the tract/setback area may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the sensitive area tract/sensitive area setback area and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a property subject to the sensitive area tract/setback area. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area and buffer are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

19. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.). The tract(s) shall be reconfigured to create more useable area. Fencing shall be provided between the recreation tract and SAT tract.
  - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
  - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
  - c. The steep slope buffer may be reduced to 15 feet adjacent to the recreation tract.
  - d. If a pedestrian easement is to be provided within the Tract C recreation area, it shall be relocated adjacent to the tract's southern boundary.

20. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
21. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 148<sup>th</sup> Avenue SE is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
  - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.



ORDERED this 26th day of October, 2004.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 26th day of October, 2004, to the parties and interested persons of record:

Kenneth Bulen  
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Auburn WA 98092

Muckelshoot Indian Tribe  
Attn: Enviro. Review  
39015 - 172nd Ave. SE

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Steve Townsend  
DDES/LUSD  
Land Use Inspections

Larry West  
DDES/LUSD  
Geo Review  
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Bruce Whittaker  
DDES/LUSD  
Prel. Review Engineer  
MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 9, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 16, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

#### MINUTES OF THE OCTOBER 12, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L02P0015.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley, representing the Department; and James Jaeger, representing the Applicant.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file no. L02P0015
- Exhibit No. 2 DDES Preliminary Report dated October 12, 2004
- Exhibit No. 3 Application dated August 13, 2002
- Exhibit No. 4 Environmental Checklist dated August 13, 2002
- Exhibit No. 5 Determination of Non-significance dated August 27, 2004
- Exhibit No. 6 Affidavit of Posting for Notice of Permit Application indicating a posting date of February 20, 2004; received by DDES on March 5, 2004. Notice of Application
- Exhibit No. 7 Plat map received June 24, 2004
- Exhibit No. 8 KCRS variance decision dated May 17, 2004 (File L04V0016)
- Exhibit No. 9 Conceptual Drainage Plan received April 9, 2003
- Exhibit No. 10 Level 1 Drainage Analysis by Jaeger Engineering dated August 1, 2002

Exhibit No. 11 Preliminary Drainage Calculations by Jaeger Engineering dated August 1, 2002  
Exhibit No. 12 Geotechnical Study by Earth Consultants dated August 11, 2003  
Exhibit No. 13 Slope Stability Analysis by Earth Consultants, received June 24, 2004  
Exhibit No. 14 Letter from City of Federal Way dated September 27, 2002  
Exhibit No. 15 Traffic Impact Analysis by Gibson Traffic Consultants dated September 2003  
Exhibit No. 16 SWDM Adjustment dated November 6, 2003 (file L03V0038)

The following exhibits were entered into the record on October 25, 2004:

Exhibit No. 17 Revised plat map, received by DDES on October 19, 2004  
Exhibit No. 18 Revised Conceptual Drainage Plan, received by DDES on October 19, 2004  
Exhibit No. 19 Revised plat detail map, received by DDES on October 19, 2004  
Exhibit No. 20 Memo from Kin Claussen re: Subdivision Technical Committee comments, dated October 21, 2004

SLS:ms  
L02P0015 RPT